

**Ravalli County Planning Board**  
**Meeting Minutes for February 1, 2006**  
**7:00 p.m.**  
**Commissioners Meeting Room, 215 S. 4<sup>th</sup> Street, Hamilton, Montana**

**Public Hearings**

Skysong Farm (Grout) Major Subdivision and Three Variance Requests  
Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision and One Variance Request  
Thomas (Thomas) Minor Subdivision and Three Variance Requests

*This is a summary of the meeting, not a verbatim transcript. An audiotape of the meeting may be purchased from the Planning Department for \$10.00.*

**1. Call to order**

**Dan Huls** (called the meeting to order at 7:04 p.m.)

**2. Roll Call** (See Attachment A, Roll Call Sheet)

(A) Members

Ben Hillicoss (present)  
Dan Huls (present)  
Frankie Laible (present)  
Roger Linhart (present)  
Chip Pigman (present)  
Tom Ruffatto (present)  
Les Rutledge (present)  
Lori Schallenberger (not present - excused)  
Garry Shook (not present - excused)  
Gary Zebrowski (present)

(B) Staff:

Renee Van Hoven  
Benjamin H. Howell  
Tristan Riddell

**3. Approval of Minutes**

**Dan** asked if there were any corrections or additions to the minutes from January 18, 2006. There were none. The minutes were approved.

**4. Amendments to the Agenda**

There were none.

**5. Correspondence**

One new letter was submitted regarding the Mountain View Orchards, Block 12, Lot B (Zech) Minor Subdivision (See Attachment B, Neighborhood Permission for Gravel Road).

## 6. Disclosure of Possible/Perceived Conflicts

**Roger** noted he knows the applicants for the Skysong Farm Major Subdivision, but had no financial interests.

**Dan** excused himself from the Mountain View Orchards Block 12, Lot B, AP (Zech) minor subdivision deliberation.

## 7. Public Hearing

### (A) Skysong Farm (Grout) Major Subdivision and Three Variance Requests

(i) Staff Report on the Subdivision and Variance Requests: **Benjamin Howell** gave a Power Point presentation. He outlined the proposal and stated that Staff recommended approval of Variance 1 and 2, denial of Variance 3, and approval of the Skysong Farm Major subdivision based on the findings of fact and conclusion of law in the Staff Report and subject to the conditions of the Staff Report (See Attachment C, Skysong Farm (Grout) Major Subdivision and Three Variance Requests Staff Report). An additional letter was submitted to the Planning Department and handed out to the Planning Board (See Attachment R, Proposed Revisions to Bylaws and Homeowners Covenants, Skysong Farm Subdivision).

#### (ii) Three Minute Rule Waiver Requests

There were none.

#### (iii) Public Comment on the Subdivision Proposal and Variance Requests

##### (a) Persons in Favor

**Steve Powell** stated that he had no objections to the staff report. There was concern expressed regarding long term maintenance and weed control within the 17-acre park. The current owner already maintains the open space and adding new lots would create new owners to further help with maintenance of the proposed park. A variance from paving was requested because the subdivider wants to maintain the character of the property. Hunting and recreational traffic already exist on the private road and paving would create more unwanted traffic. Dust abatement for the road is outlined in both the covenants and homeowner's association documents. There is proposed annual dust control. The paved road is not a cost issue, but more of a character issue.

##### (b) Persons Opposed

There were none.

##### (c) Rebuttal

There was none

##### (d) Close: Public Comment

(iv) Board Deliberation on Variance Request #1 (Side lots at right angles with the road)

(a) Board Discussion and Questions

**Les** addressed weed control and asked how the property owners would control weeds since the land has been farmed organically.

**Peter Reynolds** stated that weeds are controlled mainly by mowing and pulling and pesticides are not used more than necessary, but the property owners are open to any method for controlling weeds that is recommended by the Weed Board Director.

**Frankie** asked if the existing neighbors were okay with the fact that the road was not going to be paved.

**Steve Powell** assured Mrs. Liable that all neighbors were in agreement in regards to not paving the road.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact and conclusions of law in the Staff Report.

(2) Board Decision on the Variance Request

**Les** made a motion to approve the variance request based on the findings of fact and conclusion of law in the Staff Report.

**Tom** seconded the motion.

The vote was called; the members voted (8-0) to approve the Variance Request (See Attachment D, Skysong Farm Variance Request #1).

(v) Board Deliberation on Variance Request #2 (Flag lots)

(a) Board Discussion and Questions

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact or conclusions of law in the Staff Report.

(2) Board Decision on the Variance Request

**Roger** made a motion to approve the variance request based on the findings of fact and conclusions of law in the Staff Report.

**Tom** seconded the motion

The vote was called; the members voted (8-0) to approve the Variance Request (See Attachment E, Skysong Farm Variance Request #2).

(vi) Board Deliberation on the Variance Request #3 (Road Standards for Weber Heights Road)

(a) Board Discussion and Questions

**Gary** noted that the reasons for granting the variance stated by the applicant sounded reasonable in terms of dust abatement and that the proposal meets the County's Growth Policy.

**Ben** disagreed with Gary's statement and does not want to approve the variance because the Planning Staff, Fire District and Health Board all recommend denial.

**Chip** noted that there is uniqueness to the project because they are trying to create a neighborhood feel.

**Frankie** agreed with Chip and stated that not everyone wants a paved road.

**Steve** stated that if the Board denies the variance to not pave the gravel road, then the developer would like consideration for the hammerhead turnarounds.

**Les** stated that from Growth Policy standpoint he would deny the variance request and opt for paving.

(b) Board action

(3) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact or conclusions of law in the Staff Report.

(4) Board Decision on the Variance Request

**Chip** made a motion to approve the Variance Request based on the findings that the neighborhood wants to maintain a rural character, and that the positioning of the road is central to the overall project and subject to the condition that dust abatement is included in the covenants and Road Maintenance Agreement.

**Tom** seconded the motion

**Dan** asked if the bonding issue could be addressed.

**Chip** asked if Steve would comment on the bonding issue.

**Steve** stated that the developer is open to Staff suggestions regarding the bonding issue.

**Renee** noted that **James McCubbin** could be consulted regarding the bonding issue.

**Chip** amended the motion to be subject to a condition that the applicant work with an attorney to bond future applications of dust abatement on Weber Heights Road.

The vote was called; and the members voted (6-2) to approve the Variance Request (See Attachment F, Skysong Farm Variance Request #3).

(v) Board Deliberation on the Subdivision Proposal

(a) Board Discussion and Questions

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the findings of fact and conclusions of law in the Staff Report.

(2) Board Decision on the Subdivision Proposal

**Chip** made a motion to approve the Subdivision based on the findings of fact and conclusions of law in the Staff Report, with the recommendation that the County accept the parkland dedication as proposed by the applicant and amending Condition 6 to state that a contribution of \$250 per lot to the Corvallis School District is due upon first conveyance of each Lot.

**Frankie** seconded the motion

The vote was called; and the members voted (8-0) to approve the Subdivision Proposal (See Attachment G, Skysong Farm Subdivision Proposal).

(B) Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision and One Variance Request

**Dan removed himself from discussion due to conflicting interest. Chip presided over discussion.**

(i) Staff Report on the Subdivision and Variance Request: **Benjamin Howell** gave a Power Point presentation. A memorandum was submitted to the Planning Board members (See Attachment H, Memo regarding Condition 11). He outlined the proposal and stated that Staff recommended denial of the Variance Request and approval of the Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision based on the findings of fact and conclusions of law in the Staff Report and subject to the conditions of the Staff Report. (See Attachment I, Mountain View Orchards Block 12, Lot B, AP (Zech) Minor Subdivision and One Variance Request Staff Report)

(ii) Three Minute Rule Waiver Requests

There were none.

(iii) Public Comment on the Subdivision Proposal and Variance Request

(a) Persons in Favor

**Leonard Shepherd** stated he had no argument against the recommendations of Staff. Mr. Shepherd requested that the internal road be considered under two lot local road conditions because it will only access two lots.

(b) Persons Opposed

**Dan** discussed the potential effects on agricultural operations because the Huls Dairy surrounds the area. He stated concerns regarding the unknown reaction of new residents to agricultural activities. Also, Sutherland Road to the north has a dangerous driveway and a blind intersection. These are two public safety issues.

(c) Rebuttal

**Leonard** stated that the County Road Department has given consent for road access. He noted that this danger is not unusual for county roads.

(d) Close: Public Comment

(iv) Board Deliberation on the Variance Request (Road Standards for Coyote Creek Drive)

(a) Board Discussion and Questions

**Roger** asked where the road is considered unsafe.

**Dan** pointed out on the map where dangers are on the road. Dan then explained that trucks run up and down the road during harvest season, which also poses a safety hazard.

**Roger** stated that the new access point was not where these aforementioned hazards are located.

**Ben** asked if there is a straightforward solution to the road problems.

**Dan** responded no.

**Les** stated that the road doesn't conform with fire department standards. And asked what the road proposal is.

**Chip** stated to the Board that the road would meet the definition of 2 lot local roads based on the subdivision regulations.

**Frankie** stated concerns regarding the hay land.

**Tom** stated that lots are located next to an existing dairy, so the buyers should be aware.

**Leonard** stated that a notification to future property owners will be filed, and always is filed. He also suggested that a statement on the front of the plat could help.

**Gary** agreed with the inclusion of a notice on the face of plat describing the location of existing agricultural activities.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact or conclusions of law in the Staff Report.

(2) Board Decision on the Variance Request

**Frankie** made a motion to approve the Variance Request based on the finding that the road serves two lots.

**Tom** seconded the motion

**Gary** asked if the road width met the Fire Department's Standards

**Renee** stated that the road does not meet fire department recommendations for road width.

**Ben** explained why road width is important for fire truck access.

**Tom** stated he would make the road 20 feet wide based on concerns brought forth by Ben and Gary.

**Frankie** withdrew her motion.

**Tom** made a motion to approve the Variance Request based on the finding that the road only serves two lots, and with the condition that the road be built to meet County Standards except that a 20 foot wide gravel travel surface within a 30 foot wide easement be allowed.

**Frankie** seconded the motion

The vote was called; and the members voted (8-0) to approve the Variance Request (See Attachment J, Mountain View Orchards Block 12, Lot B, AP Variance Request).

(v) Board Deliberation on the Subdivision Proposal

(a) Board Discussion and Questions

**Ben** expressed concern regarding agriculture being pushed out of the valley.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

**Les** requested that the Six Criteria be considered (See Attachment K, Six Criteria Form).

(2) Board Decision on the Subdivision Proposal

**Frankie** made a motion to approve the subdivision based on findings of fact and conclusions of law in the Staff Report and subject to the Conditions in the Staff Report, with the addition of Condition 11 that notification to the proximity to agricultural lands be placed on the face of the final plat and that Condition 4 be amended to state that a contribution of \$250 per lot to the Corvallis School District is due upon first conveyance of each lot.

**Roger** seconded the motion

The vote was called; and the members voted (5-2) to approve the Subdivision Proposal (See Attachment L, Mountain View Orchards Block 12, Lot B, AP, Subdivision Proposal).

**(C) Thomas (Thomas) Minor Subdivision and Three Variance Requests**

(i) Staff Report on the Subdivision and Variance Requests: **Renee** gave a Power Point presentation. She outlined the proposal and stated that Staff recommends denial of all three Variance Requests and approval of the Thomas (Thomas) Minor Subdivision based on the findings of fact and conclusions of law in the Staff Report and subject to the conditions of the Staff Report. (See Attachment M, Thomas (Thomas) Minor Subdivision and Three Variance Requests Staff Report)

(ii) Three Minute Rule Waiver Requests

There were none.

(iii) Public Comment on the Subdivision Proposal and Variance Requests

(a) Persons in Favor

**Terry Nelson** stated that there are no issues with staff recommendations. There are three existing residents on the property, so the subdivision will create

two new building sites. With the improvement of Long Lane and Thomas Court, impacts from the subdivision on the road should be mitigated.

(b) Persons Opposed

**John Crowley** expressed concerns regarding the possibility of mobile homes being located in his neighborhood.

(b) Rebuttal

**Terry** stated that he did not know if covenants were going to be filed. Terry then stated that he can find out if Mr. Thomas will be placing covenants on the land.

(c) Close: Public Comment

(iv) Board Deliberation on Variance Request #1(Road Standards for Thomas Court)

(a) Board Discussion and Questions

**Gary** asked if Thomas Court already existed.

**Terry** explained that it exists as a driveway, and it will be widened to become a road and meet fire road standards. There will also be a paved T-intersection at Long Lane and Thomas Court.

**Gary** expressed concern with the fact that Thomas court could be used by more than two lots.

**Les** noted that it looks as if Thomas Court could be accessed by all four lots.

**Terry** proposed to place a non ingress/ egress zone so that only two lots could be accessed from Thomas Court. Terry then mentioned that the County has no concerns regarding private roads and their accesses.

**Dan** stated that he was concerned with the remaining piece of Long Lane servicing the existing lots. Dan asked if there is an existing Road Maintenance Agreement.

**Ben** asked if the subdivider found out if the existing lots would become part of a proposed Road Maintenance Agreement.

**Terry** responded that he is not opposed to asking Mr. Thomas and the neighbors. Mr. Nelson also made it clear that a Road Maintenance Agreement has to be filed prior to final plat approval.

**Renee** stated to the board that a Road Maintenance Agreement is required for every private road leading to and within the subdivision.

**Chip** brought up the point that the developer does have to have a Road Maintenance Agreement based on his subdivision, but that it does not require off-site residents to participate.

**Ben** asked where the accesses are proposed for Lots B4 and B2.

**Terry** stated that there is a proposed driveway for Lot B2, and that Lot B4 already has an existing driveway, so there is no reason for it to change.

**Ben** asked if Thomas Court is proposed to be 20 feet wide.

**Terry** responded that it would be constructed to be 20 feet wide based on new fire regulations, which were created after the subdivision was originally applied for.

**Roger** stated a no ingress/egress zone could be conditioned to prohibit accesses for the lots already having existing accesses.

**Terry** stated that under the new road standards Thomas Court would need to have a chip sealed 18 foot wide travel surface, Long Lane would need to have an 18 foot wide paved travel surface.

**Tom** asked if there would be dust abatement.

**Terry** responded that dust abatement would be applied.

**Les** stated that the unnamed gravel driveway is a road therefore is under minimal requirements for gravel roads.

**Terry** stated that based on new regulations, road requirements are based on number of lots, and that is why variances have been requested.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact and conclusions of law in the Staff Report.

(2) Board Decision on the Variance Request

**Chip** made a motion to approve Variance 1 with the conditions that Thomas Court be constructed to have a 20 foot wide travel surface, that dust abatement be applied to Thomas Court prior to final plat and once in the year after, and that a no ingress/egress be located along the Thomas Road frontage for Lots B2 and B4.

**Les** seconded the motion

The vote was called; the members voted (7-1) to approve the Variance Request (See Attachment N, Thomas Variance Request #1).

(v) Board Deliberation on Variance Request #2 (Road Standards for unnamed road accessing Lot B1)

(a) Board Discussion and Questions

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact and conclusions of law in the Staff Report.

(2) Board Decision on the Variance Request

**Chip** made a motion for approval based on the finding that there will be no additional impacts from this subdivision because the house on Lot B1 is existing.

**Frankie** seconded the motion

The vote was called; and the members voted (5-3) to approve the Variance Request (See Attachment O, Thomas Variance Request #2).

(vi) Board Deliberation on the Variance Request #3(Road Standards Long Lane)

(a) Board Discussion and Questions

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact and conclusions of law in the Staff Report.

(2) Board Decision on the Variance Request

**Chip** made the motion to approve variance based on the finding that there will be no additional impacts from this subdivision because the house on Lot B4 is existing.

**Frankie** seconded the motion

**Ben** stated that nothing in the record says that the original owner will keep ownership of the existing lots. Sale of these lots would create new impacts.

The vote was called; the members voted (5-3) to approve the Variance Request (See Attachment P, Thomas Variance Request #3).

(vii) Board Deliberation on the Subdivision Proposal

(a) Board Discussion and Questions

**Terry** stated that there is nothing within the six criteria that allows for the board to recommend that covenants be placed on property. Terry confirmed that he would

talk with Mr. Thomas regarding the situation and inform all neighbors of the outcome.

**John** noted that there is a community irrigation pump located in the northeast corner of the subject property that services irrigation of his property. John wanted to know what will happen when the new lots are created.

**Terry** stated that a 10 foot wide irrigation easement will be placed on the existing pump which will guarantee that Mr. Crowley will still have use of the irrigation system.

**Dan** asked if Mr. Thomas will maintain irrigation.

**Terry** stated that Mr. Thomas would continue to maintain all existing irrigation infrastructure.

**Gary** stated that negative impacts to 4 and 6 of the six criteria may be mitigated with covenants.

**Ben** stated concerns that there is no way the Board can take into account concerns of neighbors whose concerns are not specifically worded within the six criteria.

**Dan** stated that covenants are not a conditional requirement

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the finding of fact and conclusions of law in the Staff Report.

(2) Board Decision

**Chip** made the motion to approve the subdivision, based on the finding of fact and the conclusions of law in the Staff Report and subject to the Conditions in the Staff Report, amending Condition 8 to require a \$250 per lot contribution for Lots B2 and B3 to the School District upon first conveyance and Condition 9 to require a \$500 per lot contribution for Lots B2 and B3 to the Fire District prior to final plat, and adding a condition that a 10 foot wide irrigation easement be placed along the eastern boundary of the subdivision.

**Frankie** seconded the motion.

The vote was called; and the members voted (6-2) to approve the Subdivision Proposal (See Attachment Q, Thomas Subdivision Proposal).

8. **Close Public Hearing**

9. **Plat Evaluation**

10. **Communications from Staff**

There was none.

**11. Communications from Public**

A woman asked what the procedure was to get Long Lane paved.

**Ben** stated that a Road Maintenance Agreement could be used.

**Dan** recommended that neighbors get together and talk to the developer and his agent regarding how to get a Road Maintenance Agreement written that would cover the entire road.

There was continued discussion with the public regarding their thoughts on the Board meeting. The talk shifted towards ideas about zoning.

**12. Communications from Board**

**Dan** stated that David Dennis resigned; he will ask the commissioners for a new appointment in a timely matter.

**13. New Business**

The Board discussed the status of Patrick O'Herren.

**14. Old Business**

**Les** stated that he talked with James about pro-rata and where one can go about establishing nexus and proportionality regarding subdivisions. Les pointed out that the major issue is to insure that the money will be used to benefit the development.

**Ben** commented that the biggest issue is that the money is not tracked properly. Documentation should show exactly how money is assessed and what it is used for. If money is not used, it should be returned to the owner of the lots.

**Ben** stated he understands that there is little record of how pro rata was assessed and where it went.

Florence school issue was brought up, regarding lack of classrooms and request for large sum of money per lot, discussion then turned toward impact fees.

**15. Next Regularly Scheduled Meeting: February 15, 2006 at 3:00 P.M.**

Daly Estates Major Subdivision (Mol PPL) Variance Request – Public Hearing.

**16. Adjournment 9:31 pm**